

## **Section 1. Applicability**

(a) These rules apply to any person, firm, corporation, partnership, association, foundation, governmental unit, or agency, whether public or private, that provides or intends to provide IC 33-23-14 reentry court services to reentry court participants.

(b) Any person, firm, corporation, partnership, association, foundation, governmental unit, or agency, whether public or private, that provides reentry court services to or for persons ordered by the court to participate in the reentry court must be certified.

## **Section 2. Approval Requirements**

A person, firm, corporation, partnership, association, foundation, governmental unit, or agency, whether public or private, that provides or intends to provide services to persons who participate in the certified reentry court and whose services are within the scope of IC 33-23-14, may not offer, advertise, deliver, or provide services without first obtaining a provisional or three (3) year certificate of approval from the Indiana Judicial Center.

## **Section 3. Definition of Terms**

The following terms, when used in these rules, shall have the meanings below unless the context clearly indicates a different meaning:

**"Addiction treatment services"** means a broad range of planned and continuing care, treatment, and rehabilitation, including, but not limited to, counseling, psychological, medical, and social service care designed to influence the behavior of an individual who has a substance use disorder based on an individual treatment plan.

**"Case management"** means goal oriented activities that facilitate, coordinate, or monitor the full range of basic human needs, treatment, and service resources and delivery for individual reentry court participants in accord with the policies and procedures of the reentry court or other service provider.

**"Case manager"** means a reentry court team member responsible for managing a number of individual reentry court participants and the participants' respective case files, which may include administering a risk and needs assessment, substance abuse and mental health screening, referral to treatment and ancillary services, monitoring participant compliance with the reintegration plan and participation agreement and providing participant progress and compliance information to the reentry court team. A reentry court case manager may include a probation officer, community corrections officer or a parole officer.

**"Case termination"** means following the procedure for concluding a participant's court imposed obligation to participate in reentry court either through successful completion of the requirements or through a court entry of disposition which may include returning the participant to the department of correction.

**"Certified reentry court"** means a reentry court that has applied for and has received a certificate of approval from the Indiana Judicial Center.

**"Chemical test"** means an analysis of an individual's blood, breath, hair, sweat, saliva, urine, or other bodily substances to determine the presence of alcohol or a drug.

**"Community transition program"** has the meaning set forth in IC 11-8-1-5.6.

**"Components of reentry court"** means supervision, offender assessment, judicial involvement, case management and services, and program evaluation, as set forth in IC 33-23-14-4.

**"Department of Correction"** means the department of state government established under IC 11-8-2-1.

**"Documentation"** means a written record acceptable as evidence to demonstrate compliance with these rules.

**"Drug"** includes any controlled substance as defined in IC 35-48-1-9 and any drug as defined in IC 9-13-2-49.1.

**"Eligibility screening"** means a procedure for determining a potential participant's legal eligibility for the community transition program and for admission to the reentry court under IC 33-23-14-3 and court guidelines.

**"Intake"** means the procedure for collecting personal and demographic information from a participant upon admission to reentry court.

**"Judicial involvement"** means ongoing interaction between the reentry court judge and each participant.

**"Orientation"** means the administrative process conducted before or after a participant is admitted to a reentry court.

**"Participant"** means any person who has signed a participant agreement and agreed to a reintegration plan, or has begun receiving services from the reentry court, whichever happens first. However, for purposes of orientation and confidentiality (sections 18 and 19) "participant" means any person who has been scheduled for an offender assessment.

**"Program Evaluation"** means a systematic process used to assess the reentry court's process or outcomes in light of identified goals and objectives.

**"Policy"** means a statement of the principles that guide and govern the activities, procedures and operations of a reentry court.

**"Procedure"** means a series of activities designed to implement reentry court goals or policy.

**"Process evaluation"** means a procedure to document and analyze the development and implementation of a program, to assess whether strategies were implemented as planned and to determine whether expected outputs were produced.

**"Reentry court"** means services established under IC 33-23-14 that provide supervision, offender assessment, judicial involvement, case management and services and program evaluation.

**"Reentry court advisory body"** is a group of people that the supervising judge may appoint to provide advice on reentry court matters

**"Reentry court coordinator"** means the individual responsible for the administration, management and coordination of reentry court services and operations, which includes supervising reentry court staff, ensuring the court's compliance with reentry court statutes and rules, developing reentry court policies and procedures, managing service provider contracts and team member memoranda of understanding, managing program grants, facilitating team meetings, and serving as a liaison to local service providers and community groups.

**"Reentry court judge"** means the judicial officer who presides over a reentry court.

**"Reentry court services"** means a broad range of services provided under a reintegration plan, including supervision, offender assessment, judicial involvement, case management and services and program evaluation that may be extended to a reentry court participant and that influence the behavior of the participant toward identified goals and

objectives. The services and the manner in which they are provided are guided by IC 33-23-14.

**"Reintegration plan"** means a plan that documents activities that the participant must complete as a condition of reentry court participation. These activities may be based upon the results of a risk and needs assessment or mental health assessment, the reentry court participation agreement or other court orders.

**"Risk and needs assessment"** means the procedure conducted to determine the participant's criminogenic risks and needs for the purpose of forming a reintegration plan.

**"Substance"** means any drug, controlled substance, or alcohol.

**"Supervising judge"** means the judge who has ultimate responsibility for a reentry court. This may or may not be the same person as the reentry court judge.

**"Supervision"** means a method of monitoring a participant's compliance with the reintegration plan and the participation agreement.

**"Treatment plan"** means a plan that addresses substance abuse or addiction and mental health issues by:

- (a) identifying the individual participant's strengths and needs through assessment,
- (b) defining goals and objectives based on identified need, and
- (c) establishing the services to be provided to assist with achieving the stated goals and objectives.

**"Volunteer"** means a person who, without direct financial remuneration, provides ongoing services to the reentry court

#### **Section 4. Compliance**

(a) The Indiana Judicial Center may take administrative actions necessary to ensure compliance with these rules, including:

- (1) Reviews.
- (2) Surveys.
- (3) Site visits.

(b) In order for a reentry court to secure and retain a certificate of approval, it must demonstrate compliance with the components of reentry court and standards imposed by these rules in the following manner:

- (1) The reentry court must comply with all of the standards for components of a reentry court.
- (2) A reentry court that demonstrates compliance with all the standards for components of a reentry court shall be issued a certificate of approval that is valid for three (3) years from the date of issue, unless otherwise revoked.

(c) In the event of a revision of these rules, any certified reentry court may continue operations with the approval of the Indiana Judicial Center until scheduled certification or re-certification review by the Center is completed. All certified reentry courts must comply with these rules as revised and amended.

(d) Unless otherwise indicated, these rules and any amendments to these rules take effect thirty (30) days after they are adopted by the Indiana Judicial Conference Board of Directors.

## **Section 5. Notification of Intent**

(a) Except as provided in section 7, a court shall notify the Indiana Judicial Center in writing during the planning stages of the court's intention to establish a reentry court.

(b) Following notice to the Indiana Judicial Center of the court's intention to establish a reentry court, the court shall complete a planning workshop approved by the Problem-Solving Courts Committee prior to submitting an application to the Indiana Judicial Center under section 6.

## **Section 6. Certification Procedures**

(a) Except as provided in section 7, a court that proposes to establish a certified reentry court under IC 33-23-14 must submit a completed application to the Indiana Judicial Center not more than thirty days prior to the court's anticipated start date.

(b) The Indiana Judicial Center will review the court's application. The Indiana Judicial Center must conduct a site visit to determine whether the proposed reintegration services are in compliance with these rules, applicable federal and state laws and the components of a reentry court. The Indiana Judicial Center may offer recommendations as appropriate.

(c) The Indiana Judicial Center must approve or deny the court's application to establish a certified reentry court.

(d) If the Judicial Center approves the court's application to establish a certified reentry court, the Judicial Center must issue a provisional certificate authorizing the court to operate as a certified reentry court.

(e) After a reentry court receives the provisional certificate from the Indiana Judicial Center the reentry court may:

- (1) set and require the assessment and collection of fees authorized by IC 33-23-14-12; and
- (2) begin the delivery of reintegration services authorized by IC 33-23-14.

(f) A provisional certificate is valid for one hundred eighty (180) days. The provisional certificate of approval must be displayed in a prominent place in the reentry court and a copy must be kept on file in the office of the Indiana Judicial Center.

(g) Before the provisional certificate expires the reentry court must follow the provisions described in Sec. 8.

(h) If the Indiana Judicial Center denies the court's application to establish a certified reentry court, the Judicial Center must follow procedures outlined in section 9.

## **Section 7. Certification Procedures for Reentry Courts Operating Prior to the Rules**

- (a) This section applies to a reentry court that:

- (1) began operation prior to July 1, 2008; and
- (2) obtained provisional certification under the Interim Reentry Court Rules.

(b) The reentry court may continue to operate pending certification provided the court has followed the procedures described in the Interim Reentry Court Rules and follows the procedures in this section.

- (c) While the provisional certificate is in effect, the court may:
- (1) assess and collect fees under IC 33-23-14-12; and
  - (2) operate as a certified reentry court and receive the benefits of the provisions in IC 33-23-14.

(d) The reentry court must complete an application for certification and return it to the Indiana Judicial Center with any other materials requested by the Judicial Center, no later than ninety (90) days after Judicial Conference Board of Directors adopts final rules governing certification. The Indiana Judicial Center must schedule and conduct a site visit and certification review including a review of:

- (1) The reentry court's compliance with IC 33-23-14.
- (2) The reentry court's compliance with these rules.
- (3) The number, qualifications, and abilities of reentry court staff.
- (4) The participation by and interaction between the reentry court team members.
- (5) The qualifications and abilities of any contractor that provides services to the reentry court or its participants, and the contractor's compliance with the terms of the contract.
- (6) The qualifications and abilities of any treatment provider that provides treatment services to the reentry court's participants and the treatment provider's compliance with the terms of the provider referral agreement.

(e) The Indiana Judicial Center must approve or deny the court's application to establish a certified reentry court.

(f) If the Indiana Judicial Center approves the court's application to establish a certified reentry court, the Judicial Center must issue a three (3) year certificate authorizing the court to operate as a certified reentry court. This document must be displayed in a prominent place in the reentry court office and a copy must be kept on file in the office of the Indiana Judicial Center.

(g) If the Indiana Judicial Center denies the court's application to establish a certified reentry court, the Indiana Judicial Center must follow the procedures outlined in section 9.

## **Section 8. Recertification Procedures**

(a) A certified reentry court must follow the procedures described in this section to initiate a recertification review and obtain recertification.

- (b) Prior to the expiration date of the certificate the reentry court coordinator must:
- (1) notify the Indiana Judicial Center that the reentry court intends to apply for recertification and request an application for recertification;
  - (2) schedule a review date; and

(3) submit the application for recertification and all supporting materials to the Indiana Judicial Center no less than thirty (30) days prior to the review date.

(c) Recertification review may include evaluation of each of the following:

- (1) The reentry court's compliance with IC 33-23-14.
- (2) The reentry court's compliance with these rules.
- (3) The number, qualifications, and abilities of reentry court staff.
- (4) The participation by and interaction between the reentry court team members.
- (5) The qualifications and abilities of any contractor that provides services to the reentry court or its participants, and the contractor's compliance with the terms of the contract.
- (6) The qualifications and abilities of any treatment provider that provides treatment services to the reentry court's participants and the treatment provider's compliance with the terms of the provider referral agreement.
- (7) Investigations of complaints pertaining to the reentry court's compliance with IC 33-23-14, these rules and related federal and state laws, rules and regulations.
- (8) Any other issues or subjects that the Indiana Judicial Center determines are relevant to the review.

(d) The Indiana Judicial Center must approve or deny the court's application for recertification.

(e) If the Judicial Center approves the court's application for recertification, the Judicial Center must issue a three (3) year certificate authorizing the court to operate as a certified reentry court. This document must be displayed in a prominent place in the reentry court office and a copy must be kept on file in the office of the Indiana Judicial Center. Not later than sixty (60) days after completion of the recertification review the Indiana Judicial Center must send a final report to the supervising judge and reentry court coordinator.

(g) If the Indiana Judicial Center denies the court's application for recertification, the Indiana Judicial Center must follow the procedures outlined in section 9.

(h) The Indiana Judicial Center may issue a written extension of a reentry court's authority to operate under its existing provisional certificate or three (3) year certificate in order to complete the recertification procedures in this section.

## **Section 9. Denial of Application for Certification or Recertification**

(a) The Indiana Judicial Center may deny an application for certification or recertification for one (1) or more of the following reasons:

- (1) Permitting, aiding, or abetting the commission of an unlawful act.
- (2) Conduct or practices found by the Indiana Judicial Center to:
  - (A) threaten public health or safety; or
  - (B) be harmful to the health or safety of any participant in the reentry court.
- (3) Deviation from the plan of operation submitted with the application that, in the judgment of the Indiana Judicial Center, adversely affects the character, quality, or scope of services provided to participants.
- (4) Failure of the applicant to cooperate with the Indiana Judicial Center in connection

with the certification process or an investigation.

(5) Failure of the applicant to provide accurate or reliable information on the application or regarding the reentry court's operations or practices.

(b) The Indiana Judicial Center must notify the supervising judge, by certified mail, return receipt requested, that the Indiana Judicial Center intends to deny the application. The notice must contain all of the following information:

(1) A brief statement explaining the reasons for the denial.

(2) A statement that the decision to deny the application will become final unless the supervising judge submits written objections to the Indiana Judicial Center, within thirty (30) days, stating why the denial should not become final.

(3) If the supervising judge submits timely objections to the proposed denial as described in subdivision (2), and the reentry court is in operation, the reentry court may continue operating, except in extraordinary circumstances, until the conclusion of negotiations and hearings.

(4) In extraordinary circumstances, the Indiana Judicial Center may limit or deny this period of operation if it determines that continued reentry court operations present an imminent danger to the public health or safety.

(c) If the supervising judge submits written objections, the Indiana Judicial Center must provide a full opportunity for resolution of all disputed issues.

(d) If objections to an impending denial have been submitted, no settlement of the points of contention can be made, and the Indiana Judicial Center denies the application a second time, the supervising judge may, within fifteen (15) days of the date the second denial is issued, request a hearing. The Indiana Judicial Center must provide the hearing and the hearing must be conducted as described in section 11.

## **Section 10. Suspension and Revocation Procedures**

(a) The Indiana Judicial Center may revoke a reentry court's provisional certificate for one (1) or more of the following reasons:

(1) Permitting, aiding, or abetting the commission of an unlawful act.

(2) Conduct or practices found by the Indiana Judicial Center to:

(A) threaten public health or safety; or

(B) be harmful to the health or safety of any participant in the reentry court.

(3) Deviation from the plan of operation submitted with the application that adversely affects the character, quality, or scope of services provided to participants.

(4) Failure of the reentry court to cooperate with the Indiana Judicial Center in connection with the certification process or the investigation of a complaint pertaining to the reentry court's compliance with IC 33-23-14, these rules and related federal and states laws, rules and regulations.

(5) Failure of the reentry court to provide accurate or reliable information on the application or regarding the reentry court's operations or practices.

(6) Failure to apply for certification no later than ninety (90) days after the Judicial Conference Board of Directors adopts final rules governing certification.

(7) Failure of the reentry court to provide written notice to the Indiana Judicial Center of

any change described in section 12(a).

(b) The Indiana Judicial Center must notify the supervising judge, by certified mail, return receipt requested, that the Indiana Judicial Center intends to revoke the certificate. The notice must contain all of the following information:

- (1) A brief statement explaining the reasons for revocation.
- (2) Notification of the Indiana Judicial Center's request for a hearing under section 11(c) to determine the issue of revocation of the reentry court's certificate.
- (3) A statement of the matters of law and fact to be determined at the hearing.

(c) The Indiana Judicial Center may suspend a certificate, upon written notice to the supervising judge provided simultaneously to the notice of the institution of revocation proceedings described in subsection (b), if the Indiana Judicial Center determines an imminent danger to public health or safety warrants this action. The suspension continues in effect until the conclusion of all hearings, including any judicial review, unless sooner withdrawn by the Indiana Judicial Center or dissolved by a court of competent jurisdiction.

(d) Whenever the Indiana Judicial Center determines that any reason exists justifying the revocation of a reentry court's certification, the Indiana Judicial Center must observe the procedures required in section 11.

## **Section 11. Hearing Procedures**

(a) All hearings held to determine issues relating to the denial or revocation of a certificate must follow the procedures described in this section.

(b) A supervising judge who submitted written objections under section 9(b) may file a request for a hearing.

- (1) The request must be in writing and must state the reason for the request for hearing.
- (2) The request for hearing may not include any reasons that were not included in the objections submitted under section 9(b).
- (3) The request must be filed with the Indiana Judicial Center within fifteen (15) days after the second denial of the application under section 9(d).

(c) Within thirty (30) days after a request for a hearing has been filed with the Indiana Judicial Center, the Problem Solving Courts Committee (PSCC) shall appoint a hearing examiner to be selected as follows:

- (1) The executive director of the Indiana Judicial Center shall create a list naming three (3) judges who are members of the PSCC but who are not members of the Board of Directors of the Judicial Conference.
- (2) In designating the three (3) judges the executive director shall consider availability, years of service on PSCC, and extent of participation.
- (3) The supervising judge shall select one (1) name from the three (3) listed and advise the executive director of the name selected.

(d) The hearing examiner shall conduct an informal hearing with thirty (30) days after the date the hearing examiner is appointed.



- (1) At least ten (10) days before the date of the hearing, the hearing examiner shall provide the supervising judge and the Indiana Judicial Center with written notice of the date, time and place of the hearing.
  - (2) The Indiana Judicial Center must show why:
    - (A) the application does not meet certification requirements established by the Judicial Conference of Indiana; or
    - (B) revocation of the certificate is justified.
  - (3) Either party may submit evidence.
  - (4) The hearing examiner is not required to follow any formal rules of evidence or procedure.
  - (5) The hearing examiner shall make an electronic recording of the hearing and may have a written transcript prepared of the electronic recording. The supervising judge may obtain a copy from the Indiana Judicial Center of the electronic recording or the written transcript if a written transcript has been prepared.
  - (6) The hearing examiner may ask each party to submit proposed findings and recommendations after the hearing.
  - (7) The hearing examiner may grant the parties an extension of time for good cause.
- (e) Within thirty (30) days after the hearing, the hearing examiner shall submit proposed written findings and recommendations to the supervising judge and the Indiana Judicial Center.
- (1) Objections to the findings and recommendations must be:
    - (A) in writing; and
    - (B) filed with the Indiana Judicial Center no later than fifteen (15) days after the date the proposed findings and recommendations were issued.
  - (2) The findings and recommendations will be submitted to PSCC unless the supervising judge gives written notice within the fifteen (15) day period that he or she has decided to withdraw the appeal.
  - (3) If no objections are filed and PSCC adopts the findings and recommendations as submitted without a hearing, those finding and recommendations become final.
  - (4) If either the supervising judge or the executive director of the Indiana Judicial Center objects to the findings and recommendations, or if PSCC proposes to modify or reject the findings and recommendations in the absence of any objections, PSCC must conduct a hearing and provide the supervising judge and the executive director of the Indiana Judicial Center with an opportunity to be heard orally concerning the findings and recommendations. At least ten (10) days before the hearing, the Indiana Judicial Center must give written notice of the date, time and place of the hearing to the supervising judge.
  - (5) PSCC's findings and recommendations must be adopted by a majority vote of the members present and voting.
- (f) The supervising judge or the executive director of the Indiana Judicial Center may request the Board of Directors of the Judicial Conference to review PSCC's decision.
- (1) The request for review must be:
    - (A) in writing describing specific objections to the findings and recommendations adopted by PSCC; and
    - (B) filed with the Indiana Judicial Center or the supervising judge within fifteen (15) days after the date PSCC renders its decision.

- (2) At least ten (10) days before the Board meeting, the Indiana Judicial Center must give written notice of the date, time and place of the meeting to the supervising judge.
- (3) The Board's findings and recommendations must be adopted by a majority vote of the members present and voting and are final.
- (4) The Indiana Judicial Center shall notify the supervising judge of the Board's decision in writing within ten (10) days after the decision is made.

## **Section 12. Notice of Change**

(a) Any applicant or holder of a certificate of approval shall give written notice to the Indiana Judicial Center of any change of supervising judge, reentry court judge, reentry court coordinator, or location of reentry court staff. Notice of the change shall be submitted to the Indiana Judicial Center not later than thirty (30) days after the change takes effect. The Indiana Judicial Center may require a new application and review as a result of the change.

(b) Any court that terminates its reentry court must provide the Indiana Judicial Center written notice of intent to terminate, at least thirty (30) days prior to termination of its reentry court. The written notice must include the court's reasons for termination and provide a description for how current participants will transition to alternative services following the court's termination of the program.

## **Section 13. Funding Authorization**

A reentry court that is not certified by the Indiana Judicial Center, and an applicant whose plan of operation does not comply with requirements for certification under these rules is not entitled to receive a favorable review or recommendation from the Indiana Judicial Center on any application for funding of services from state, federal, or private funding sources.

## **Section 14. Reentry Court Management**

(a) A reentry court must have a reentry court judge and a team appointed by the reentry court judge that consists of at least four (4) members.

(1) Each of the following roles must be represented on the reentry court team, but an individual may represent more than one (1) role:

- (A) The reentry court coordinator.
- (B) One (1) or more case managers.
- (C) One (1) or more local mental health providers.
- (D) One (1) or more provider of addiction treatment services.

(2) In addition to the members required under subdivision (1), the team may include any combination of the following:

- (A) One (1) or more probation officers.
- (B) One (1) or more community corrections officers.
- (C) A parole agent or representative.
- (D) The local prosecuting attorney or a representative from the prosecuting attorney's office.
- (E) A criminal defense attorney.
- (F) A representative of the community transition program.

(G) A victim's representative or advocate.

(H) A school liaison

(I) Any other member appointed by the supervising judge or the reentry court judge.

(b) Each member of the reentry court team must sign a memorandum of understanding that describes team members':

- (1) agreement to uphold confidentiality requirements;
- (2) commitment to participate in reentry court meetings; and
- (3) responsibilities in relation to the reentry court.

(c) The reentry court must establish a policy and practice regarding regular team meetings to discuss the, progress, sanctions or termination of participants prior to the participants' scheduled court appearances.

(d) The reentry court shall maintain on file a description of the members of the reentry court team and of the advisory body if one has been appointed.

(e) The reentry court coordinator is responsible for the daily operation and administration of the reentry court.

(f) The reentry court must have a written statement of goals and objectives in its policy and procedure manual that clearly guides the operation of the reentry court and the delivery of services. The reentry court coordinator must review the statement annually and revise it as necessary.

(g) A reentry court must have a policy and procedure manual that contains written policies and procedures for conducting day-to-day reentry court activities. A reentry court must do each of the following:

- (1) Incorporate the components of reentry court into its policies, procedures, and practices.
- (2) Update the manual as needed, but at least annually.
- (3) Make the manual available to the reentry court team and staff.
- (4) Verify that all practices are in keeping with the policies and procedures contained in the manual.

(h) The written policies and procedures of a reentry court must include each of the following:

- (1) Full documentation of the reentry court's operational and administrative structure.
- (2) A description of team member roles and responsibilities.
- (3) A description of the procedures the reentry court will use to implement the program goals and objectives
- (4) A description of the reentry court eligibility criteria.
- (5) A policy and practice of nondiscrimination in providing reentry court services.

(i) If a reentry court refers a participant to a provider, including an individual, for addictions or mental health treatment services not provided by the reentry court, the reentry court must determine that the provider is an addictions or mental health treatment services provider

certified by the Division of Mental Health and Addiction, or certified, licensed or accredited by an equivalent certifying agency and obtain a copy of the provider's certification or license.

(j) The court must have a written referral agreement with each addictions or mental health treatment services provider that includes procedures for the following:

- (1) Initiation and acceptance of referrals.
- (2) Exchange of participant-related information.
- (3) Post-referral reporting by the treatment services provider that enables the reentry court to perform its monitoring responsibilities.

(k) A reentry court may contract with a person, firm, corporation, association, or governmental entity, to provide one (1) or more services for the reentry court except legal eligibility determination and case termination. A contractor must possess and demonstrate the capability to provide contractual services for the reentry court in the manner intended and meet all requirements contained in IC 33-23-14 and these rules that apply to the services the contractor will provide.

*Commentary on Section 14. The supervising judge of a reentry court is encouraged to appoint a reentry court advisory body.*

*Commentary on Section 14(a). Each member of the reentry court team should obtain sufficient in service training each year to stay current in reentry court related issues.*

*Commentary on Section 14(c). Team members are expected to attend and participate in the team meetings.*

*Commentary on Section 14(i). The purpose of this subdivision is to ensure that reentry courts are confirming the credentials of treatment providers prior to making referrals. Ancillary service providers are not required to be certified or licensed.*

## **Section 15. Reentry Court Staff Requirements**

(a) A reentry court must have a policy and procedure describing reentry court staff qualifications.

(b) A reentry court must have written evidence that the reentry court coordinator complies with at least one (1) of the following descriptions:

- (1) has a baccalaureate degree in criminal justice or a human services field from an accredited university or college, and the equivalent of five (5) years of full-time paid experience in criminal justice or a human services; or
- (2) was employed as a reentry court coordinator before December 31, 2008.

(c) A reentry court must have written evidence that each case manager and each staff member performing intake and referral or risk assessment complies with at least one (1) of the following:

- (1) has a baccalaureate degree in criminal justice or a human services field from an accredited university or college; or

(2) was employed by a reentry court as a case manager or a staff member performing intake and referral or risk assessment before December 31, 2008.

(d) A volunteer that performs one or more job duties of the reentry court coordinator or a case manager as defined in section 3 must meet the qualifications in subsection (b) or (c) of this section, as applicable.

(e) The reentry court coordinator, case managers and staff members performing intake and referral or risk assessment must complete a staff orientation program approved by the Problem-Solving Courts Committee within the staff member's first year of employment with the reentry court.

(f) The reentry court coordinator and case managers must document fifteen (15) hours annually of job specific continuing education beginning in the second year of employment.

(g) The reentry court must maintain personnel files for all personnel and volunteers, which contain at least the following information:

(1) Job description, including:

(A) Job title.

(B) Qualifications.

(C) Credentials, if applicable.

(D) Duties and responsibilities.

(E) Reporting and supervisory responsibilities.

(2) A written staff development plan, and documentation of:

(A) Orientation for entry-level staff.

(B) In-service and continuing education activities.

(3) A criminal records check conducted for each staff member prior to the staff member's employment.

## **Section 16. Reports and Evaluations**

(a) A reentry court must collect statistical data s as required by the Indiana Judicial Center.

(b) A reentry court must complete a process evaluation within the first three years of operation and must then complete a process evaluation at least once during each subsequent three-year certification period.

(c) A reentry court must provide each participant with an opportunity to complete a survey intended to provide the reentry court with the participant's written comments about the services provided. The survey must include an opportunity to comment on each of the following:

(1) Services or programs provided directly by the reentry court.

(2) Services or programs provided by the reentry court through a contractor.

(3) Services or programs provided by referral agency.

(d) The reentry court coordinator shall:

(1) Prepare a written annual report that includes each of the following for the preceding

year:

- (A) A summary of the reentry court's activities and accomplishments.
  - (B) A summary of the reentry court's income and expenditures.
  - (C) Documentation of any certification reviews or visits, if applicable.
  - (D) Statistical data and results of any process and outcome evaluations of the reentry court.
- (2) Submit a copy of the annual report to the Indiana Judicial Center no later than March 31<sup>st</sup> of each year.

## **Section 17. Eligibility Screening and Referral to Reentry Court**

(a) A reentry court must have a written policy and procedure regarding referral to reentry court and determining an individual's legal eligibility for reentry court under IC 33-23-14.

(b) Final determination of the individual's eligibility to participate in the reentry program rests with the reentry court judge.

## **Section 18. Intake and Orientation**

(a) A reentry court must have and observe a written policy and procedure for conducting intake and orientation for each participant, and when appropriate, the participant's family. The policy and procedure must meet the following criteria:

- (1) The procedure for orientation includes an explanation of each of the following:
  - (A) Specific eligibility requirements for reentry court participation including the fact that a person does not have a right to participate in reentry court.
  - (B) The services offered by the reentry court either directly or through referral.
  - (C) The requirements for successful completion of reentry court. This explanation should include a description of the scheduling and attendance requirements including court dates, chemical testing, day reporting, appointments with case managers or treatment providers, self-help and other group meetings, and other regularly scheduled requirements.
  - (D) Conduct and behavior that could result in sanctions or termination from reentry court.
  - (E) Possible sanctions for non-compliance with reentry court requirements.
  - (F) Information about the treatment providers used by the reentry court
  - (G) Information about the cost to participants for the user fee, day reporting, home detention and work release, chemical testing, and treatment services and the procedure and schedule for paying those costs.
  - (H) Information about the reentry court's policy and procedures for scheduling and conducting chemical tests.
  - (I) Information about whether or not a participant has the right to obtain advice of counsel depending on the type of reentry court and the procedural standing of the participant.
- (2) Intake must be conducted individually.
- (3) Orientation may be conducted during an individual or a group appointment.

(b) A reentry court must have a form used to advise each participant in writing of the

information described in subsection (a). The form must contain a signature line or a signature page for the participant to indicate that the participant has been provided a copy of the form, understands the information provided, and agrees to comply with the chemical testing requirements. The reentry court must place the form or the signature page with the participant's original signature in the participant's record.

## **Section 19. Confidentiality of Records**

(a) A reentry court must have a written policy and procedure, conforming to applicable state and federal laws, that ensures the confidentiality and security of participant records. At a minimum, the policy and procedure must do the following:

(1) Comply with IC 5-14-3-4(a)(8) and Ind. Administrative Rule 9 governing public access to and confidentiality of court records. Admin. R. 9(G)(1)(b) declares as confidential:

(A) All records relating to drug tests not admitted into evidence as part of a public proceeding pursuant to Ind. Code § 5-14-3-4(a)(9); and,

(B) All medical and mental health records unless determined by law or regulation of any governmental custodian not to be confidential, released by the subject of such records, or declared by a court of competent jurisdiction to be essential to the resolution of litigation pursuant to Ind. Code §§ 16-39-3-10.

(2) Comply with federal and state laws concerning patient records, including federal rules pertaining to the confidentiality of medical information, mental health records, and substance abuse patient records (42 CFR Part 2).

(A) Compliance with 42 CFR Part 2 shall include, at a minimum, the following areas:

1. What information is protected.
2. Who is covered by these laws and regulations, including minor participants, mentally incompetent participants and deceased participants.
3. When disclosure of protected information requires consent.
4. When disclosure of protected information does not require consent:
  - a. Internal program communication.
  - b. Medical emergencies.
  - c. Crime on program premises or against program personnel by a participant.
  - d. Qualified research.
  - e. Audits and evaluations.
  - f. Reports of suspected child abuse in accordance with state law.
  - g. Qualified Service Organization agreements.
  - h. Certain court orders with a subpoena.
5. The execution of release of information forms:
  - a. Criminal justice consent forms (non-revocable).
  - b. General consent forms (revocable).
6. The prohibition on re-disclosure of protected information.
7. Participant access to records.

(B) Release of health care and mental health records must comply with IC 16-39.

(b) A reentry court must create and utilize a criminal justice release of information form to obtain the participant's consent for the release of confidential information in compliance with 42 CFR Part 2. The release of information form with the participant's original signature must be

filed in the participant's record. The form must contain the following elements:

- (1) The name of the reentry court releasing the information.
- (2) The names or job titles of each of the reentry court team members that will receive information pursuant to the release of information.
- (3) The purpose or need for the release of information.
- (4) A description of how much and what kind of information will be released.
- (5) The date, event or condition upon which the consent will expire.
- (6) Statement that the participant understands that matters relating to the participant's case and compliance will be discussed in open court.
- (7) A signature line for the participant.
- (8) A signature line for a witness.
- (9) The date on which the consent form was signed.

(c) The reentry may also create and utilize a general release of information form to be used to obtain the participant's consent for the release of confidential information to individuals designated by the participant in compliance with 42 CFR Part 2. The release of information form with the participant's original signature must be filed in the participant's record. This form must contain each of the following elements:

- (1) The name of the reentry court releasing the information.
- (2) The name of the individual or organization that will receive the information.
- (3) The purpose or need for the release of information.
- (4) A description of how much and what kind of information will be released.
- (5) The participant's right to revoke the consent at any time in writing
- (6) The date, event or condition upon which the consent will expire if not previously revoked.
- (7) Statement that the participant understands that matters relating to the participant's case and compliance will be discussed in open court.
- (8) A signature line for the participant.
- (9) A signature line for a witness.
- (10) The date on which the consent form was signed.

(d) The reentry court staff member completing the consent form must cross out or mark "NA" on any blank lines remaining after the form has been completed to ensure the forms cannot be altered after being signed by the participant.

(e) In order to ensure appropriate participant confidentiality, the reentry court's facilities, including waiting rooms, offices, chemical testing facilities, and group areas other than the court room must be arranged in a way that minimizes disclosure of confidential information to the general public. The facilities must provide adequate space for storage of participant records and permit participant records to be properly secured at all times as required under federal regulations.

## **Section 20. Risk and Needs Assessment**

(a) A reentry court must have a written policy and procedure for scheduling and conducting a risk and needs assessment. The risk and needs assessment may be conducted by reentry court staff or referred to an outside agency.



- (b) The risk and needs assessment must meet each of the following criteria:
  - (1) The risk and needs assessment must include a personal interview conducted by a qualified person and placed in the participant's file.
  - (2) The risk and needs assessment must:
    - (A) use an empirically valid assessment instrument; and
    - (B) be conducted by an individual with documented training on the use of the instrument.
  - (3) The risk and needs assessment must be conducted no later than fifteen (15) working days after the date of the participant's intake.

(c) If the risk and needs assessment instrument used under subsection (b) suggests the individual requires a more detailed evaluation in a particular area such as substance use, mental health disorder, or other issue, the person conducting the assessment must refer the individual for further evaluation.

## **Section 21. Reintegration Plan**

(a) The reentry court must have a written policy and procedure for developing a reintegration plan. The reintegration plan may address the following components:

- (1) Supervision, including the use of home detention, day reporting, electronic monitoring, or chemical testing.
- (2) Mental health treatment services.
- (3) Substance abuse treatment services.
- (4) Anger management.
- (5) Community and victim services.
- (6) Faith based services.
- (7) Employment services.
- (8) Restitution.
- (9) Housing services.
- (10) Domestic violence services.
- (11) Education services.
- (12) Life skills.

(b) The reentry court must provide a copy of the reintegration plan to the participant and document the participant's receipt of the plan in the participant's record.

(c) The reentry court must establish a mechanism for periodically updating the reintegration plan by obtaining copies of subsequent reintegration plans or documenting modifications by the case manager through written updates submitted by the case manager or through progress notes maintained by the reentry court.

(d) The reintegration plan and any periodic updates must be maintained in the participant's record.

(e) If the reintegration plan includes a referral to a service provider, the service provider must provide the case manager with periodic updates reporting the participant's progress. The

case manager must maintain written updates in the participant's record or include other types of updates in the progress notes.

(f) If the reintegration plan includes a referral to a mental health or substance abuse treatment provider for services, the treatment provider must give the case manager a copy of the treatment plan and revisions to the treatment plan. The case manager must maintain the treatment plan and any revisions to the treatment plan in the participant's record.

## **Section 22. Participation Agreement**

(a) A reentry court must develop a participation agreement that must contain each of the following:

- (1) The county or jurisdiction of the reentry court.
- (2) All parties to the participation agreement.
- (3) The source of the court's jurisdiction under IC 33-23-14-3, including whether the participant is: on probation, on parole, participating in a community transition program, or released to community corrections as part of a sentence reduction or modification.
- (4) The case number or cause number accepted into the reentry court.
- (5) The length of the reentry court program.
- (6) A list of rights the participant must waive in order to participate in reentry court.
- (7) A list of reentry court requirements.
- (8) The impact of successfully completing reentry court on the case under which the participant was accepted into reentry court.
- (9) The consequences to the participant as a result of termination from reentry court.
- (10) Information related to reentry court fees.
- (11) An advisement that the participant's case and compliance, including information that might otherwise be confidential, may be discussed in open court.

(b) A reentry court must provide each participant the opportunity to review the participation agreement. If participation in reentry court involves a modification of the participant's sentence, the participant shall be provided the opportunity to review and discuss the participation agreement with counsel provided by the court.

(c) The participation agreement must include the signature of all parties to the agreement.

(d) A copy of the signed participation agreement must be maintained in the participant's record.

## **Section 23. Case Management**

(a) A reentry court must have a policy and procedure for recording participant progress in the record of the participant.

(b) The participant record kept by the case manager must comply with the following:

- (1) Progress notes are filed or maintained in chronological order, either integrated or by type of record.
- (2) Progress notes contain the date and the signature, name, or initials of the staff member

making the entry.

(3) Progress notes document any of the following:

(A) Result of the intake interview and process.

(B) All contact with the participant.

(C) Any contact with an individual or an agency directly regarding the participant.

(c) The reentry court case manager must monitor the participant's compliance with the reintegration plan and the participation agreement. The reentry court case manager shall facilitate, coordinate, and monitor the full range of basic human needs, treatment, and service resources and delivery for reentry court participants in accord with the policies and procedures of the reentry court or other service provider.

## **Section 24. Termination Procedures**

The reentry court shall establish written policy and procedure for processing the successful completion or termination of all participants under the reentry court's jurisdiction, including procedures for those participants on probation, on parole, in the community transition program and/or in the community corrections program, as applicable. Written policy and procedure shall include:

(1) terminating a participant's court imposed obligation to participate in the reentry court; and

(2) providing written notice to the sentencing court or referring agency after the participant has:

(A) successfully complied with the reintegration plan and the participation agreement; or

(B) violated any requirement of the reintegration plan or the participation agreement.

## **Section 25. Fiscal Management**

(a) The reentry court must have a written policy and procedure on fiscal management that provides cash handling procedures, an accounting system, and that complies with requirements of the State Board of Accounts.

(b) Upon request the reentry court must provide the Indiana Judicial Center with a copy of any reports, audits, or approvals issued by the State Board of Accounts.

(c) The reentry court must have each of the following:

(1) A current budget.

(2) A documented schedule of fees.

(2) Procedures to ensure payment for services.

*Commentary on Section 25. User fee statutes (IC 33-37-8-3 and IC 33-37-8-5) limit the use of money from user fees to funding reentry court services.*

## **Section 26. Records of Reentry Court Proceedings**

(a) All reentry court hearings and proceedings shall be recorded in accordance with Ind. Crim. Rule 5.

(b) A chronological case summary shall be created and maintained for each reentry court case in accordance with Ind. Trial Rule 77(B).

## **Section 27. Chemical Testing**

(a) The reentry court may require participants to submit to chemical testing to determine the participant's use of alcohol and/or controlled substances.

(b) If the reentry court mandates chemical testing of participants, the court shall develop written policy and procedures for scheduling and conducting chemical tests, to include:

- (1) The specific method or methods of chemical testing used by the reentry court.
- (2) What samples are collected and tested, such as urine, blood, breath, sweat or saliva.
- (3) Substances identified by testing.
- (4) The cutoff level for each substance.
- (5) Circumstances requiring a confirmation test, if any.
  - (A) The reentry court's procedures for confirmation including the type of confirmation test used.
  - (B) The party responsible for paying the cost of a confirmation test.
- (6) Collection procedures including staff training and sample chain of custody.
- (7) The cost of and payment procedures for chemical testing, including:

(c) A participant who tests positive or whose sample is determined to have been adulterated, is liable for the costs of the chemical tests regardless of whether the cost of the test is paid to the reentry court or to the testing laboratory.

**END**